



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 11, 1996

Ms. Linda Wiegman
Supervising Attorney
Office of General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR96-2372

Dear Ms. Wiegman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102584.

The Texas Department of Health (the "department") received a request for "any and all records of complaints against Bayview Hospital in Corpus Christi . . . include certified copies of investigative, incident, licensure and certification reports." However, the department seeks to withhold the complaints and investigations pursuant to section 552.101 of the Government Code through the application of § 261.201 of the Family Code. You enclosed portions of the complaints and investigations the department seeks to withhold.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report;

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.¹

(Footnote added). The other provisions of section 261.201 do not appear to apply here. We also are not aware of any rules promulgated by the department which permit the dissemination of this type of information.² Accordingly, we agree that the portions of the complaints and investigations submitted are made confidential by section 261.201 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) (applying former Fam. Code § 34.08).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/rho

Ref.: ID# 102584

Enclosures: Submitted documents

¹Section 261.201 was added to the Family Code in the last legislative session and became effective, as amended, on September 1, 1995. Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262 (Vernon); Act of May 25, 1995, 74th Leg., R.S., ch. 751, §§ 93, 129, 1995 Tex. Sess. Law Serv. 3888, 3924, 3933 (Vernon). We apply the new law, as the request for information was received by the governmental body after September 1, 1995.

²We note that the requestor also requests the "licensure and certification reports" of Bayview Hospital. As samples of these reports were not submitted as part of your request, we presume that you have already released those materials to the requestor.

cc: Ricardo A. Martinez, R.N., M.P.H., Ph.D.
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(w/o enclosures)